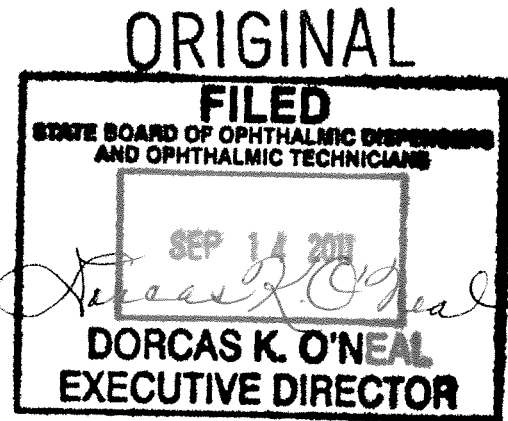


PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the State Board of Ophthalmic
Dispensers and Ophthalmic Technicians

By: Susan C. Berger
Deputy Attorney General
Tel.: (973) 648-4876



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF OPHTHALMIC DISPENSERS AND
OPHTHALMIC TECHNICIANS

IN THE MATTER OF	:	
	:	ADMINISTRATIVE ACTION
BORIS MAGER	:	
	:	FINAL ORDER AND DECISION
ENGAGING IN THE UNLICENSED	:	
PRACTICE OF OPHTHALMIC	:	
DISPENSING IN THE STATE OF	:	
NEW JERSEY	:	

This matter was initially opened to the New Jersey State Board of Ophthalmic Dispensers and Ophthalmic Technicians (the "Board") upon receipt of information that Boris Mager, ("Respondent"), an owner and manager of Cohen's Fashion Optical, located at the Monmouth Mall, 180 State Route 35 South, Eatontown, New Jersey 07724, practiced ophthalmic dispensing without a license.

Respondent signed a Consent Order, filed on August 10, 2011 admitting that he has repeatedly engaged in ophthalmic dispensing

at Cohen's Fashion Optical in Eatontown, New Jersey, that he knew the store operated many hours without a licensed ophthalmic dispenser, that unlicensed individuals were engaging in ophthalmic dispensing at the store and that he used the initials "JR" (the initials of an employee who was formerly licensed) as the optician who dispensed eye wear. Respondent agreed to cease and desist from engaging in, or holding himself out as engaging in, the practice of ophthalmic dispensing in the State of New Jersey unless and until he is licensed by the Board and from permitting any unlicensed individual/s from practicing as an ophthalmic dispenser in his store. Respondent further agreed to appear before the Board on August 10, 2011 for a hearing on the assessment of civil penalties.

Respondent appeared pro se before the Board for a hearing on the assessment of civil penalties on August 10, 2011. Respondent testified that he has owned Cohen's Fashion Optical franchise since 2004 together with his partner Aleksey Zhukov and that he manages the store. Respondent admitted that for more than six years the store operated without any licensed ophthalmic dispensers, that he has repeatedly engaged in ophthalmic dispensing, that other unlicensed individuals were engaging in ophthalmic dispensing at the store, and that he used the initials "JR" (the initials of an employee who was formerly licensed) as the optician who dispensed eye wear. Respondent testified that since March 2011 a licensed ophthalmic dispenser has been working at the store two to three days per week, that he has ceased engaging in ophthalmic dispensing

since that time, and that when the licensed ophthalmic dispenser is not present, the independent optometrist takes appropriate measurements and dispenses the eye wear to consumers.

The Board afforded respondent the opportunity to present mitigating circumstances concerning the assessment of the civil penalties. Respondent testified that he is not familiar with the statutes and regulations for ophthalmic dispensers and that he is sorry that he practiced ophthalmic dispensing without a license and permitted other unlicensed individuals to practice without licensure. Respondent stated that presently all eye wear is being dispensed by licensed individuals. Respondent did not submit any written documentation or any other information in support of mitigation of the civil penalty.

The Board is of the opinion that a substantial civil penalty must be assessed against an unlicensed individual who operated a store and engaged in the unlicensed practice of ophthalmic dispensing over a period of six years without having a licensed individual dispense eye wear. As an owner of an optical shop respondent was responsible to be informed of all statutes and regulations governing the practice of opticianry. Additionally, it appears, respondent was aware of the need for a licensed ophthalmic dispenser as he utilized the initials of a former licensee when dispensing.

ACCORDINGLY, IT IS ON THIS _____ DAY OF _____ 2011

ORDERED:

1. The Consent Order filed on August 10, 2011 is attached hereto and incorporated herein as if fully set forth.

2. Respondent shall pay civil penalties in the amount of twenty thousand dollars (\$20,000.00) for repeated practice as an ophthalmic dispenser without a license over a six year period. Providing that respondent complies with all of the terms of this Order, ten thousand dollars (\$10,000.00) of the civil penalties shall be stayed. The first payment of five thousand dollars of the civil penalty shall be made no later than thirty (30) days after the filing of this Order. The second payment of one thousand dollars (\$1,000.00) shall be made on or before November 1, 2011, the third payment of one thousand dollars (\$1,000.00) shall be made on or before December 1, 2011, the fourth payment of one thousand dollars (\$1,000.00) shall be made on or before January 3, 2012, the fifth payment of one thousand dollars (\$1,000.00) shall be made on or before February 3, 2012 and the sixth payment of one thousand dollars (\$1,000.00) shall be made on or before March 5, 2012. Each payment shall be made by certified check or money order payable to the "State of New Jersey" and sent to Dorcas O'Neal, Executive Director, New Jersey State Board of Ophthalmic Dispensers and Ophthalmic Technicians, P.O. Box 45011, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.

5. Failure to make any payment by the 10th of the month in which it is due or rejection of payment for insufficient funds or any other reason, shall automatically activate the stayed portion

of the civil penalty, and the full amount of the unpaid civil penalty shall immediately become due and owing and shall be paid by certified check or money order. Failure to remit payment as required by this Order will result in the filing of a Certificate of Debt and such other proceedings as are permitted by law.

6. Receipt of any reliable information that respondent has deviated from the terms of this Order without prior written consent of the Board, shall automatically activate the stayed portion of the civil penalty. In such event, respondent may petition the Board on five (5) days notice for a hearing limited to the sole issue of whether he has deviated from the terms of this Order.

7. Failure to comply with this order or any other violation will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

NEW JERSEY STATE BOARD OF OPHTHALMIC
DISPENSERS AND OPHTHALMIC TECHNICIANS

By: _____

Michael Higgins, President